

REMARKS

The Applicants wish to thank the Examiner for examining the application and finding the subject matter of claims 74 and 75 to be allowable if rewritten to overcome the rejections(s) under 35 U.S.C. § 112, 2nd paragraph, set forth in the subject office action and to include all of the limitations of the base claim and any intervening claims. Claims 73 and 74 have been cancelled, claims 69, 75 and 78 have been amended, and claims 79-89 have been added, such that claims 69-72, 75-89 are currently pending. Applicants note that dependent claims 73 and 74 have been incorporated into independent claim 69; and new independent claim 80 reflects claim 69 with dependent claims 73 and 75 incorporated. No new matter has been added.

Double Patenting

Claims 69 and 73 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claim 1, respectively, of copending application no. 11/410,515. To address this rejection, Applicants herewith provide a terminal disclaimer to disclaim the terminal part of the statutory term of any patent, granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 of the '515 patent application. Applicants' submission of this terminal disclaimer should not be construed as an admission that the present claims are obvious in view of the claims of the '515 patent application.

35 U.S.C. § 112

Claims 74 and 75 stand rejected under 35 U.S.C. § 112, second paragraph, as lacking insufficient antecedent basis for the limitation "the at least one axis" in line 1." Claims 73 and 74 have been incorporated into claim independent claim 69, and claim 75 has been amended to reflect "...wherein determining biomechanical data further includes determining at least one axis" Applicant submits that the instant claims comply with the requirements of 35 U.S.C. § 112, second paragraph, and are therefore in condition for allowance.

It is submitted that all pending claims are in condition for allowance. Reconsideration of the claims and a notice of allowance are therefore requested. It is believed that a three month extension of time is required. Applicants respectfully petition for such an extension. Authorization is hereby given to charge the extension fee to deposit account number 19-4972. If any additional fees are required for the timely consideration of this application, please charge deposit account number 19-4972.

If the Examiner has any questions as to the allowability of the currently pending claims or if there are any defects which need to be corrected, the Examiner is invited to speak to the Applicants' counsel at the telephone number given below.

Respectfully Submitted,

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